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06                   UNITED STATES DISTRICT COURT  
07                   WESTERN DISTRICT OF WASHINGTON  
08                   AT SEATTLE

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TOMAS AFEWORKI,	) CASE NO. C06-0628-MJP-MAT
Plaintiff,	)
v.	) ORDER GRANTING DEFENDANTS'
STEVE THOMPSON, et al.,	) MOTION TO USE RECORDS;
Defendants.	) DENYING PLAINTIFF'S MOTION
	) TO COMPEL DISCOVERY
	)
	)

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13                   Defendants have filed a motion to use certain records and to file those records under seal.

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15 (Dkt. #33). Plaintiff has not opposed this motion. Plaintiff has filed a motion to compel  
16 discovery. (Dkt. #42). Defendants need not file a response to plaintiff's motion as the court  
17 addresses it below. Having considered the motions and the balance of the record, the court does  
18 hereby find and Order as follows:

19                   (1) Defendants' unopposed motion to use certain records and file them under seal  
20 (Dkt. #33) is GRANTED. The Clerk shall seal the exhibits attached to the declarations of David  
21 Oster (Dkt. #38) and Eileen Diemert (Dkt. #36).

22                   (2) Plaintiff has had at least five months, since the court issued the Pretrial Order on

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01 October 6, 2006, to conduct discovery or bring any discovery disputes to the court's attention.  
 02 The court previously granted plaintiff's motion to extend discovery until February 9, 2007. (Dkt.  
 03 #30). In arguing against the extension, defendants pointed out that plaintiff had yet to conduct  
 04 *any* discovery in the case. (Dkt. #29 at 1). However, in recognition of plaintiff's *pro se* status,  
 05 the court granted plaintiff additional time to collect evidence to support his claims. (Dkt. #30 at  
 06 1). When the court granted this extension, the court advised plaintiff that no further extensions  
 07 of time would be granted absent extraordinary circumstances. (*Id.* at 2).

08 The record shows that on February 2, 2007, plaintiff learned from counsel for defendants  
 09 that defendants would not comply with his request for oral depositions, the dispute that plaintiff  
 10 now wishes the court to address. (Dkt. #42, Ex. H). Yet plaintiff waited until February 16, 2007  
 11 – one week after the discovery deadline had elapsed – to file the instant motion to compel.<sup>1</sup>  
 12 Accordingly, because it was filed after the already-extended deadline for discovery had elapsed,  
 13 plaintiff's motion to compel discovery (Dkt. #42) is untimely and therefore is DENIED.

14 (3) The Clerk shall send copies of this Order to plaintiff, to counsel for defendants, and  
 15 to the Honorable Marsha J. Pechman.

16 DATED this 6th day of March, 2007.

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 18 \_\_\_\_\_  
 19 Mary Alice Theiler  
 United States Magistrate Judge

20 <sup>1</sup> Plaintiff signed the certificate of service accompanying his motion to compel on February  
 21 16, 2007. Although the motion was not received by the court until February 28, 2007, under the  
 22 "prison mailbox rule," a document submitted by a prisoner is deemed to be filed the day the  
 document is delivered to prison authorities for mailing to the court. See *Houston v. Lack*, 487  
 U.S. 266, 270 (1988). Accordingly, the motion to compel is deemed filed on February 16, 2007.

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